

CRM-M-13966-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 5th April, 2018

Ajit Singh & others

...Petitioners

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Shashi Kumar Yadav, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.122 dated 12.07.2011, under Sections 420, 406 and 120-B of the Indian Penal Code, registered at Police Station Sadar Ballabgarh, District Faridabad, (Annexure P-8), charge-sheet dated 29.08.2013 (Annexure P-11) and all consequential proceedings arising therefrom.

It is the contention of the learned counsel for the petitioners that there is a chequered history so far as the ownership of the property is concerned, however, as per the allegations in the FIR, it is apparent that the property in dispute, which is the subject matter of the FIR, is subject to litigation in RSA No. 1239 of 2007, which is pending in this Court, where the complainant has already been impleaded as a party on an application.

He contends that the dispute being purely civil in nature, the proceedings

which have been initiated against the petitioners cannot sustain and deserve to be quashed.

I have considered the submissions made by the counsel for the petitioners and with his able assistance have gone through the records available on file as well as the impugned order, which is of the year 2013.

As the facts come out, there is a dispute primarily between the family with regard to the ownership and property in question, however, it is not disputed that the original owner of the property was petitioner No.4-Narain Singh. He being the owner of the said property had sold the property initially to Balesh daughter of Narain Singh, who had transferred the property in her name on the basis of a decree. The said decree was challenged by petitioners No.3-Mahabir, which civil suit was dismissed, appeal against the said dismissal was preferred, which also has been dismissed and now Regular Second Appeal is pending before this Court. It is apparent that, as of now, there being no interim order passed by the Civil Court, the decree passed by the Civil Court is binding. The sale, therefore, in favour of the complainant stands established.

It would not be out of way to mention here that a fresh sale was executed by Narain Singh on 03.01.2006 to Smt. Kela Devi. Despite this sale, RSA No.1239 of 2007 came up for consideration before this Court when on the basis of the compromise, which was entered into between the family, the alleged property which is the subject matter of the sale deed and of the FIR was also included in the said compromise resulting in the disposal of the Regular Second Appeal on the basis of the said compromise.

This the complainant asserts is a fraud being played upon him, who is legal heir of Smt. Kela Devi, especially when there are two sale deeds in favour of Smt. Kela Devi, which have been unsuccessfully challenged till date by the family members i.e. petitioners No.1 and 2 relating to sale deed dated 03.01.2006 and Mahabir relating to sale deed dated 09.10.1997. This assertions appears to be correct and therefore, it cannot be said, at this stage, that no offence is made out by reading of the FIR.

Assertion of the counsel for the petitioners that a review application has been preferred by Smt. Kela Devi, in which, during the pendency whereof, she died and the present complainant-respondent No.2 was impleaded as legal heir, on hearing both the parties, Court was pleased to recall the order dated 24.08.2012 passed by this Court disposing of the appeal on the basis of the compromise. This aspect further fortifies the allegations against the petitioners that despite they being aware of such interest involved of Smt. Kela Devi and her legal heir, they had proceeded to enter into a compromise, which is apparent from the order dated 24.04.2012 (Annexure P-4) passed in Review Application i.e. RA-61-C-2010. It would not be out of way to mention here that charges against the petitioners were framed on 29.08.013 (Annexure P-11), which have not been challenged by the petitioners prior to the filing of the present petition although they had a remedy of filing a revision against the said order.

Finding no merit, therefore, in the present petition, the same stands dismissed.

It is made clear that any observation made herein-above shall

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have no bearing on the merits of the case in any manner.

5th April, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No